

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 419, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

1       Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:

3       "SECTION 1. IC 13-11-2-90 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 90. "Governmental  
5 entity", for purposes of **IC 13-18-3 and** IC 13-25-6, means the state or  
6 a political subdivision."

7       Page 3, delete lines 24 through 33, begin a new paragraph and  
8 insert:

9       "**(c) Except as provided in subsection (d), the department may**  
10 **establish for a surface water the total maximum daily load for a**  
11 **pollutant under Section 303(d)(1)(C) of the federal Clean Water**  
12 **Act (33 U.S.C. 1313(d)(1)(C)) only if, in identifying the surface**  
13 **water under Section 303(d)(1)(A) of the federal Clean Water Act**  
14 **(33 U.S.C. 1313(d)(1)(A)), the department identifies the pollutant**  
15 **as a pollutant under consideration for the establishment of the total**  
16 **maximum daily load.**

17       **(d) This subsection applies if, after meeting the requirements of**  
18 **subsection (c) with respect to a pollutant, the department discovers**  
19 **one (1) or more other pollutants that the department believes**  
20 **should be included in the total maximum daily load for the surface**  
21 **water. The department may include the other pollutant or**

pollutants in the total maximum daily load for the surface water if the department does the following before making the pollutant or pollutants the subject of consideration for the establishment of the total maximum daily load:

- (1) Demonstrates that the surface water is impaired by the pollutant or pollutants.
- (2) Notifies all interested parties.
- (3) Holds a public meeting and accepts comments."

Page 5, line 34, after "(\$500,000)" insert "to accomplish a project described in clause (A),".

Page 6, delete lines 24 through 42, begin a new paragraph and insert:

"(q) This subsection applies to all surface waters of the state other than outstanding national resource waters. If the board adopts an antidegradation rule after January 1, 2009, immediately upon adoption of the rule the department shall complete an antidegradation review of the rules in 327 IAC 15-5 through 327 IAC 15-15 that authorize the NPDES general permits that are in effect on January 1, 2009. After the antidegradation review is conducted, the board may not adopt a rule to apply antidegradation standards and implementation procedures to activities covered by an NPDES general permit authorized by a rule in 327 IAC 15-5 through 327 IAC 15-15.

(r) The commissioner shall consider the following factors in determining whether a proposed discharge is socially or economically necessary under antidegradation standards and implementation procedures:

- (1) Creation, expansion, or maintenance of employment.
- (2) Reduction of the unemployment rate.
- (3) Increase of median household income.
- (4) Reduction of the number of households below the poverty level.
- (5) Increase of the supply of needed housing.
- (6) Increase of the community tax base.
- (7) Provision of fire departments, schools, infrastructure, and other necessary public services.
- (8) Correction of a public health, safety, or environmental problem.
- (9) Production of goods and services that protect, enhance, or improve the overall quality of life and related research and development.
- (10) Improvement or reduction of the quality of life for

- 1 residents in the area.
- 2 (11) Promotion or harming of the fishing, recreation, and
- 3 tourism industries.
- 4 (12) Enhancement or harming of threatened and endangered
- 5 species.
- 6 (13) Maintenance of economic competitiveness.
- 7 (14) Demonstration by the permit applicant that the factors
- 8 identified and reviewed under subdivisions (1) through (13)
- 9 are necessary to accommodate important social or economic
- 10 development despite the proposed significant lowering of
- 11 water quality.
- 12 (15) Inclusion by the applicant of additional factors that may
- 13 enhance the social or economic benefits associated with the
- 14 new or increased pollutant discharge, such as the approval to
- 15 build a new facility given to the applicant by:
- 16 (A) a legislative body;
- 17 (B) a local planning commission; or
- 18 (C) other government officials.
- 19 (16) Any other action or recommendation relevant to the
- 20 antidegradation demonstration made by a:
- 21 (A) state;
- 22 (B) county;
- 23 (C) township; or
- 24 (D) municipality;
- 25 potentially affected by the new or increased pollutant
- 26 discharge.
- 27 (s) In determining whether a proposed discharge is socially or
- 28 economically necessary under antidegradation standards and
- 29 implementation procedures, the commissioner must give
- 30 substantial weight to any applicable determinations by
- 31 governmental entities.
- 32 SECTION 5. IC 13-18-3-2.1 IS ADDED TO THE INDIANA CODE
- 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 34 UPON PASSAGE]: Sec. 2.1. (a) If a discharge results from an
- 35 activity for which an NPDES permit subject to
- 36 IC 13-15-4-1(a)(2)(B), IC 13-15-4-1(a)(3)(B), or IC 13-15-4-1(a)(4)
- 37 is sought, the deadline for the department to adopt antidegradation
- 38 standards and implementation procedures under 40 CFR 131.12
- 39 and 40 CFR Part 132, Appendix E with respect to the discharge is
- 40 the deadline for the commissioner to approve or deny the NPDES
- 41 permit application under IC 13-15-4-1.
- 42 (b) The commissioner may extend for cause for not more than

1        **ninety (90) days the deadline under subsection (a) for the**  
2        **department to adopt antidegradation standards and**  
3        **implementation procedures."**

4        Page 7, delete lines 1 through 29.

5        Renumber all SECTIONS consecutively.

(Reference is to SB 419 as introduced.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 11, Nays 0.

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**Senator Gard, Chairperson**